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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,312	11/22/2000	Walter F. Rausch	1437	3505

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2618

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/718,312	Applicant(s) RAUSCH ET AL.	
	Examiner Duc M. Nguyen	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☒ Other: see the attached "Response to Argument".

Response to Arguments

1. Applicant's arguments filed 3/14/06 have been fully considered but they are not persuasive.

Applicant, in his response, argues that "Resynchronizing, correcting or recalibrating a signal, as disclosed by Rudow, Gurke, Bickey, and Nielsen, is significantly different from generating a stabilized oscillator signal".

In response, the Examiner notes that the specification fails to disclose any detail of the structure of the stabilized oscillator or a stabilizing system that would distinguish the different of the claimed invention from the prior arts. Therefore, Applicant's argument fails to point out the different based on the specification and has relied only on the claim language.

Applicant further contends that "A stabilized oscillator signal as claimed in the present application is essentially synchronized with a timing signal **continuously**, and thus **does not require** resynchronizing, correcting or recalibration". This statement seems to rely on the claimed limitation of a stabilizing system comprising "a timing source configured to generate the stable timing signal, wherein the stable timing signal comprises a GPS based timing signal; and a stabilized local oscillator configured to receive the stable timing signal and to use the stable timing signal as an input to generate a stabilized oscillator signal".

In response, the Examiner asserts that the claims does not recite that the oscillator **does not require** resynchronizing, correcting or recalibration, nor recite the

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“continuous” limitation, nor recite the “only” limitation for the use of the stable timing signal as an input to generate a stabilized oscillator signal. Therefore, by using the GPS timing signal for resynchronizing, correcting or recalibrating the timing clock of the oscillator, this would read on the limitation “a stabilized local oscillator configured to receive the stable timing signal and to use the stable timing signal as an input to generate a stabilized oscillator signal”. Here, since the GPS signal is the stable timing signal, and since the timing signal of the oscillator is calibrated by the GPS signal, this calibrated oscillator would read on “receive the stable timing signal as an input” as claimed. Since the timing signal of the oscillator is calibrated by the stable GPS signal, the oscillator is a stabilized local oscillator, and thus generate a stabilized oscillator signal from the stabilized timing signal (or calibrated timing signal). Therefore, the features upon which applicant relies (i.e., “continuous” and “does not require” limitations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As for the correlation between the “stabilized oscillator” terminology and the “calibration” (or correction) of the oscillator, Applicant’s attention is directed to US 6,163,294 to **Talbot** (cited in previous Office Actions) which clearly provides the above correlation (see Talbot, Fig. 3 and col. 5, line 64 – col. 6, line 9 noting for the “stabilized” and “correction” terms). Also note for the frequency drift of the oscillator with and without GPS **corrected** timing signal in Fig. 2 of Talbot.

On page 20 regarding **Bickley** reference, Applicant argues that “Thus, **Bickley** describes a numerical clock 41 (as it is coupled via a bus 42 to a data processor 38) periodically calibrated or corrected via a GPS signal, not an oscillator stabilized by a GPS-based timing signal as provided for in the independent claims.”

In response, the Examiner also directs Applicant's attention to US 6,163,294 to **Talbot** in which **Talbot** also discloses a numerical clock which is also periodically calibrated or **corrected** via a GPS signal (see Figs. 3-4 and col. 5, line 64 – col. 6, line 9), wherein an oscillator is stabilized by a GPS-based timing signal as provided for in the independent claims (see Talbot, col. 5, lines 64-67). This clearly contradicts the above Applicant's argument.

Therefore, Applicant's arguments as presented in the response are simply based on different “terminology” used in the claims, not on the operation of the system. The arguments just allege that the cited prior arts fail to teach “an oscillator stabilized by a GPS-based timing signal”, and that the “resynchronizing, correcting or recalibration” of an oscillator does not provide the limitation “an oscillator stabilized by a GPS-based timing signal” without provide any distinct operation of the claimed oscillator.

For forgoing reasons, the Examiner asserts that “resynchronizing, correcting or recalibration” of an oscillator with a GPS timing signal as taught by cited prior arts (Rudow, Gurke, Bickey, and Nielsen) does provide the limitation of “an oscillator stabilized by a GPS-based timing signal”.

In addition, just for the sake of arguments, assumed that the stabilized oscillator signal as claimed in the present application is essentially synchronized with a timing

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signal **continuously**, and **does not require** resynchronizing, correcting or recalibration, one skilled in the art would recognize that it would be **impractical** for the oscillator to use the GPS-based timing signal as the **only** input timing signal because of the weather conditions (i.e, GPS signals would be lost during severe weather conditions). Therefore, it would be practical only for the oscillator to use the GPS-based timing signal as an input timing signal to synchronize (or resynchronize) its timing signal with the GPS signal as long as the GPS signal is available.

For foregoing reasons, the examiner believes that the pending claims are not allowable over the cited prior art.

2. **Any response to this action should be mailed to:**

Box A.F.

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for **formal** communications intended for entry)

(571)-273-7893 (for informal or **draft** communications).

Hand-delivered responses should be brought to Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

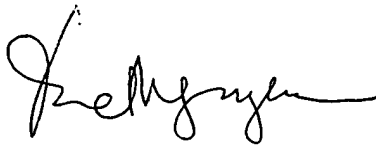
Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893, Monday-Thursday (9:00 AM - 5:00 PM).

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Or to Matthew Anderson (Supervisor) whose telephone number is (571) 272-4177.

Duc M. Nguyen, P.E.

Apr 18, 2006

A handwritten signature in black ink, appearing to read 'Duc M. Nguyen', written in a cursive style.